

AMENDED IN SENATE AUGUST 4, 2008

AMENDED IN SENATE APRIL 21, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 352

Introduced by Assembly Member Solorio
(Coauthor: Assembly Member Fuller)
(Coauthor: Senator Romero)

February 14, 2007

An act to amend Section 12556 of the Penal Code, relating to imitation firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 352, as amended, Solorio. Imitation firearms.

Existing law, subject to exceptions, makes it an offense to openly display or expose an imitation firearm in a public place, as defined.

This bill would include public schools within the definition of “public place” for purposes of these provisions.

By changing the scope of an existing offense, this bill would impose a state-mandated local program.

This bill would incorporate additional changes to Section 12556 of the Penal Code proposed by AB 2470, to be operative only under circumstances specified in the bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12556 of the Penal Code is amended to
2 read:
 - 3 12556. (a) No person may openly display or expose any
4 imitation firearm, as defined in Section 12550, in a public place.
 - 5 (b) Violation of this section, except as provided in subdivision
6 (c), is an infraction punishable by a fine of one hundred dollars
7 (\$100) for the first offense, and three hundred dollars (\$300) for
8 a second offense.
 - 9 (c) A third or subsequent violation of this section is punishable
10 as a misdemeanor.
 - 11 (d) Subdivision (a) shall not apply to the following, when the
12 imitation firearm is:
 - 13 (1) Packaged or concealed so that it is not subject to public
14 viewing.
 - 15 (2) Displayed or exposed in the course of commerce, including
16 commercial film or video productions, or for service, repair, or
17 restoration of the imitation firearm.
 - 18 (3) Used in a theatrical production, a motion picture, video,
19 television, or stage production.
 - 20 (4) Used in conjunction with a certified or regulated sporting
21 event or competition.
 - 22 (5) Used in conjunction with lawful hunting, or lawful pest
23 control activities.
 - 24 (6) Used or possessed at certified or regulated public or private
25 shooting ranges.
 - 26 (7) Used at fairs, exhibitions, expositions, or other similar
27 activities for which a permit has been obtained from a local or
28 state government.
 - 29 (8) Used in military, civil defense, or civic activities, including
30 flag ceremonies, color guards, parades, award presentations,
31 historical reenactments, and memorials.
 - 32 (9) Used for public displays authorized by public or private
33 schools or displays that are part of a museum collection.
 - 34 (10) Used in parades, ceremonies, or other similar activities for
35 which a permit has been obtained from a local or state government.

1 (11) Displayed on a wall plaque or in a presentation case.

2 (12) Used in areas where the discharge of a firearm is lawful.

3 (13) A device where the entire exterior surface of the device is
4 white, bright red, bright orange, bright yellow, bright green, bright
5 blue, bright pink, or bright purple, either singly or as the
6 predominant color in combination with other colors in any pattern,
7 or where the entire device is constructed of transparent or
8 translucent materials which permits unmistakable observation of
9 the device's complete contents. Merely having an orange tip as
10 provided in federal law and regulations does not satisfy this
11 requirement. The entire surface must be colored or transparent or
12 translucent.

13 (e) For purposes of this section, the term "public place" means
14 an area open to the public and includes streets, sidewalks, bridges,
15 alleys, plazas, parks, driveways, front yards, parking lots,
16 automobiles, whether moving or not, and buildings open to the
17 general public, including those that serve food or drink, or provide
18 entertainment, and the doorways and entrances to buildings or
19 dwellings, and shall include public schools.

20 (f) Nothing in this section shall be construed to preclude
21 prosecution for a violation of Section 171b, 171.5, or 626.10.

22 *SEC. 1.5. Section 12556 of the Penal Code is amended to read:*

23 12556. (a) No person may openly display or expose any
24 imitation firearm, as defined in Section 12550, in a public place.

25 (b) Violation of this section, except as provided in subdivision
26 (c), is an infraction punishable by a fine of one hundred dollars
27 (\$100) for the first offense, and three hundred dollars (\$300) for
28 a second offense.

29 (c) A third or subsequent violation of this section is punishable
30 as a misdemeanor.

31 (d) Subdivision (a) shall not apply to the following, when the
32 imitation firearm is:

33 (1) Packaged or concealed so that it is not subject to public
34 viewing.

35 (2) Displayed or exposed in the course of commerce, including
36 commercial film or video productions, or for service, repair, or
37 restoration of the imitation firearm.

38 (3) Used in a theatrical production, a motion picture, video,
39 television, or stage production.

1 (4) Used in conjunction with a certified or regulated sporting
2 event or competition.

3 (5) Used in conjunction with lawful hunting, or lawful pest
4 control activities.

5 (6) Used or possessed at certified or regulated public or private
6 shooting ranges.

7 (7) Used at fairs, exhibitions, expositions, or other similar
8 activities for which a permit has been obtained from a local or
9 state government.

10 (8) Used in military, civil defense, or civic activities, including
11 flag ceremonies, color guards, parades, award presentations,
12 historical reenactments, and memorials.

13 (9) Used for public displays authorized by public or private
14 schools or displays that are part of a museum collection.

15 (10) Used in parades, ceremonies, or other similar activities for
16 which a permit has been obtained from a local or state government.

17 (11) Displayed on a wall plaque or in a presentation case.

18 (12) Used in areas where the discharge of a firearm is lawful.

19 (13) A device where the entire exterior surface of the device is
20 white, bright red, bright orange, bright yellow, bright green, bright
21 blue, bright pink, or bright purple, either singly or as the
22 predominant color in combination with other colors in any pattern,
23 or where the entire device is constructed of transparent or
24 translucent materials which permits unmistakable observation of
25 the device's complete contents. Merely having an orange tip as
26 provided in federal law and regulations does not satisfy this
27 requirement. The entire surface must be colored or transparent or
28 translucent.

29 (e) For purposes of this section, the term "public place" means
30 an area open to the public and includes streets, sidewalks, bridges,
31 alleys, plazas, parks, driveways, front yards, parking lots,
32 automobiles, whether moving or not, and buildings open to the
33 general public, including those that serve food or drink, or provide
34 entertainment, and the doorways and entrances to buildings or
35 dwellings, *and shall include public schools and a public or private*
36 *college or university.*

37 (f) Nothing in this section shall be construed to preclude
38 prosecution for a violation of Section 171b, 171.5, or 626.10.

39 *SEC. 2. Section 1.5 of this bill incorporates amendments to*
40 *Section 12556 of the Penal Code proposed by both this bill and*

1 *AB 2470. It shall only become operative if (1) both bills are enacted*
2 *and become effective on or before January 1, 2009, (2) each bill*
3 *amends Section 12556 of the Penal Code, and (3) this bill is*
4 *enacted after AB 2470, in which case Section 1 of this bill shall*
5 *not become operative.*

6 ~~SEC. 2.~~

7 *SEC. 3.* No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.